

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**

9 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

10 **IN RE OPTICAL DISK DRIVE**
11 **ANTITRUST LITIGATION**

CASE NO. 3:10-md-2143 (RS)

12
13 [ALL ACTIONS]

**[PROPOSED] ORDER RE DISCOVERY
MATTERS (February 28, 2013 Discovery
Status Conference)**

14
15
16 On February 28, 2013 , this Court held a hearing on the status of the following outstanding
17 discovery matters, which are described in the parties' Joint Discovery Conference Statement (Dkt.
18 No. 767): (1) schedule for Defendants' production of custodial documents for agreed-upon search
19 terms; (2) schedule for completion of negotiations over search terms; (3) schedule for Defendants'
20 production of custodial documents for disputed search terms; (4) Panasonic's opposition to using
21 Plaintiffs' proposed translations of search terms in Japanese; (5) depositions of class
22 representatives; (6) depositions of J.C. Lim of PLDS and Eugene Yang of HLDS; (7) Defendants'
23 responses to Plaintiffs' questions concerning transactional data; (8) Defendants' narrative
24 responses to Plaintiffs' Rule 30(b)(6) topics; and (9) Direct Purchaser Plaintiffs' production of
25 documents. This Order memorializes the rulings issued on each of these discovery matters during
26 the discovery hearing and, where appropriate, the agreements of the parties with respect to matters
27 over which they were directed to meet and confer.
28

1. Schedule for Defendants' Production of Custodial Documents for Agreed-Upon Search Terms

Defendants are ordered to complete their productions of custodial documents for the top ten identified custodians for all agreed-upon search terms by March 15, 2013. Any Defendant may seek an extension of this deadline from Plaintiffs, as necessitated by individual technical issues. If the parties are unable to resolve a dispute concerning a request for an extension of the deadline, they shall promptly submit the dispute to the Court in a joint letter.

2. Schedule for Completion of Negotiations Over Search Terms

The parties are ordered to complete their negotiations over disputed search terms by March 8, 2013. Parties that are unable to resolve their disputes by that deadline shall appear before the Court on March 8, 2013 at 9:00 a.m. to resolve their disputes in the jury room.

3. Schedule for Defendants' Production of Custodial Documents for Disputed Search Terms

Defendants are ordered to produce custodial documents for the top ten identified custodians for all originally disputed search terms on a rolling basis. Defendants shall complete all such productions by March 31, 2013. Any Defendant may seek an extension of this deadline from Plaintiffs, as necessitated by individual technical issues. If the parties are unable to resolve a dispute concerning a request for an extension of the deadline, they shall promptly submit the dispute to the Court in a joint letter.

4. Panasonic's Opposition to Using Plaintiffs' Proposed Translations of Search Terms in Japanese

Plaintiffs and Panasonic are ordered to resolve their dispute concerning the use of Plaintiffs' proposed translations of search terms in Japanese by February 28, 2013.

5. Depositions of Class Representatives

Defendants are ordered by March 4, 2013 to identify all class representative depositions (both by name and proposed date and location) which they intend to notice prior to Plaintiffs' deadline for filing their class certification motions. By March 11, 2013, Plaintiffs shall then confirm the proposed deposition date or provide an alternative date, which absent extenuating circumstances, shall be no more than two weeks after the originally noticed deposition date.

1 Defendants shall take the depositions of no more than one-half of the total representatives of the
 2 litigation classes in each of the operative complaints before April 29, 2013.

3 **6. Depositions of J.C. Lim of PLDS and Eugene Yang of HLDS**

4 The deposition of J.C. Lim shall take place in San Francisco, California on June 5, 2013
 5 and June 6, 2013. The deposition of Eugene Yang shall take place on consecutive days until
 6 complete at any time between May 28, 2013 and June 23, 2013, in San Francisco, California,
 7 provided that Mr. Yang is able to obtain a visa to travel to the United States during that time
 8 period, or in Seoul, Korea if Mr. Yang is unable to obtain a visa. To the extent that Mr. Yang is
 9 able to travel to the United States, his deposition shall commence on May 30, 2013. These dates
 10 may be modified for good cause or by agreement of the parties. The Court understands that the
 11 parties are presently negotiating a deposition protocol. The Court is inclined to allow additional
 12 time beyond that provided in Fed. R. Civ. P. 30(d)(1) to allow all parties to examine the witnesses.

13 **7. Defendants' Responses to Plaintiffs' Questions Concerning
 14 Transactional Data**

15 The parties were ordered to meet and confer on February 28, 2013 over the date by which
 16 Defendants shall provide answers to Plaintiffs' technical questions about the format and content of
 17 the transactional data Defendants produced. The parties subsequently agreed that Defendants shall
 18 provide those answers by March 15, 2013.

19 **8. Defendants' Narrative Responses to Plaintiffs' Rule 30(b)(6) Topics**

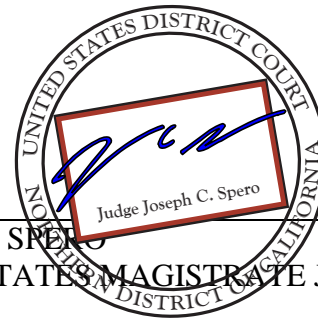
20 The parties were ordered to meet and confer on February 28, 2013 about the date by which
 21 Defendants shall provide substantive, supplemental narrative responses to Plaintiffs' Rule 30(b)(6)
 22 topics, or to complete the meet and confer concerning the same. The parties subsequently agreed
 23 that Defendants shall provide those supplemental narrative responses or complete the meet and
 24 confer by March 22, 2013. Plaintiffs have agreed on an individual basis to allow certain
 25 Defendants to provide supplemental narrative responses or complete the meet and confer by
 26 March 29, 2013. The parties may agree to an extension of these deadlines on an individual
 27 Defendant basis.
 28

9. Direct Purchaser Plaintiffs' Production of Documents

The parties were ordered to meet and confer on February 28, 2013 about the date by which Direct Purchaser Plaintiffs shall complete their production of documents. The parties subsequently agreed that Direct Purchaser Plaintiffs shall complete their productions for all class representatives in the Second Consolidated Class Action Complaint no later than March 15, 2013. This deadline is hereby adopted. The Court is not prepared to rule on whether discovery of the Direct Purchaser Plaintiffs' downstream data is permitted. The parties may submit that issue for ruling by joint letter brief.

The Court will hold a further discovery conference on April 4, 2013 at 3:30 p.m. The parties are ordered to submit an updated discovery conference statement on April 2, 2013.

April 1, 2013
DATED: ~~March~~ April, 2013



JOSEPH C. SPERO
UNITED STATES DISTRICT JUDGE

Submitted by:

Dated March 28, 2013

/s/ Aaron M. Sheanin
AARON M. SHEANIN

Bruce L. Simon
PEARSON, SIMON & WARSHAW, LLP
44 Montgomery Street, Suite 2450
San Francisco, California 94104
Tel: (415) 433-9000
Fax: (415) 433-9008
bsimon@pswlaw.com
asheanin@pswlaw.com

Counsel for Direct Purchaser Class

/s/ Guido Saveri

GUIDO SAVERI

R. Alexander Saveri
Cadio Zirpoli
SAVERI & SAVERI, INC.
706 Sansome Street
San Francisco, California 94111
Tel: (415) 217-6810
Fax: (415) 217-6813
guido@saveri.com
rick@saveri.com
cadio@saveri.com

Interim Lead Counsel for Direct Purchaser Class

/s/ Jeff D. Friedman

Jeff D. Friedman

Shana Scarlett
HAGENS BERMAN SOBOL SHAPIRO
LLP
715 Hearst Avenue, Suite 202
Berkeley, California 94710
Tel: (510) 725-3000
Fax: (510) 725-3001
jefff@hbsslaw.com
shanas@hbsslaw.com

Interim Lead Counsel for Indirect Purchaser Plaintiffs

Approved as to form:

/s/ Belinda S Lee

Belinda S Lee

LATHAM & WATKINS LLP
505 Montgomery Street Suite 2000
San Francisco, California 94111
Tel: (415) 391-0600
Fax: (415) 395-8095
belinda.lee@lw.com

Liaison Counsel on behalf of all Defendants

ATTESTATION OF CONCURRENCE IN THE FILING

Pursuant to Civil Local Rule No. 5-1(i)(3), I declare that concurrence has been obtained from each of the above signatories to file this document with the Court.

/s/ Aaron M. Sheanin
AARON M. SHEANIN

PEARSON, SIMON & WARSHAW, LLP
15165 VENTURA BOULEVARD, SUITE 400
SHERMAN OAKS, CALIFORNIA 91403

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I, Aaron M. Sheanin, declare that I am over the age of eighteen (18) and not a party to the entitled action. I am of counsel to the law firm of Pearson, Simon & Warshaw, LLP, and my office is located at 44 Montgomery Street, Suite 2450, San Francisco, California 94104. On March 28, 2013, I caused to be filed the following:

[PROPOSED] ORDER RE DISCOVERY MATTERS

with the Clerk of the Court using the Official Court Electronic Document Filing System which served copies on all interested parties registered for electronic filing.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Aaron M. Sheanin
AARON M. SHEANIN

PEARSON, SIMON & WARSHAW, LLP
15165 VENTURA BOULEVARD, SUITE 400
SHERMAN OAKS, CALIFORNIA 91403